

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

WALTER DUANE WHITE,

Plaintiff,

v.

Civil Action No. 2:07cv15

WARDEN JOYCE FRANCIS, et al.,

Defendants.

**ORDER STRIKING MOTION FOR SUBPOENA FOR PRODUCTION
OF DOCUMENTS UNDER RULE 34**

This case was initiated by the *pro se* plaintiff on February 14, 2007, upon the filing of a civil rights complaint. Plaintiff was granted permission to proceed *in forma pauperis* on February 28, 2007. The Court has not yet performed a preliminary review of the complaint in accordance with 28 U.S.C. §§ 1915(e), 1915A or LR PL L 83.01, et seq. Thus, the defendants have not yet been served and no answer is currently due. This case is now before the Court on the plaintiff's motion for discovery in the form of a request for a subpoena for the production of documents.

Pursuant to Rule 26(a)(1)(E)(iii), discovery is not permitted in "an action brought without counsel by a person in custody of the United States, a state, or a state subdivision," without the express permission of the Court. Because the Court has not granted plaintiff permission to take discovery, his requests for production are premature. In any event, pursuant to Local rules of The Northern District of West Virginia, discovery requests are not to be filed with the Court. See LR Civ P 5.01.

Accordingly, the plaintiff's Motion for Subpoena For Production of Documents (Doc. 26) is **STRICKEN** from the record. The Clerk shall remove the pleading from the active docket.

IT IS SO ORDERED.

The Clerk is directed to mail a copy of this Order to the *pro se* plaintiff.

DATED: October 16, 2007

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE